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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

Federal-State Joint Board
on Universal Service

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CC Docket No. 96-45

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MCI WORLDCOM, INC.
Opposition
Operator Communications, Inc., Petition for Forbearance

On November 17, 1999, Operator Communications, Inc., ("OCI") filed a petition asking the Commission to forbear from its universal service fund (USF) collection rules which base each carrier's annual contribution on revenues from the prior calendar year. OCI argues that it operates in a declining business segment, and therefore suffers from declining annual revenues, which, in turn, results in its USF contribution constituting an increasing share of its annual revenues. OCI contends that it would have to increase rates for its services to meet its USF contribution requirements, or discontinue service at certain payphone locations — results that would not be in the public interest.¹

MCI WorldCom, Inc., ("MCI WorldCom") opposes OCI's Petition. OCI has not provided new data or new arguments that special consideration is in the public interest since it

¹Petition for Forbearance, Operator Communications, Inc., ("OCI Petition"), CC Docket No. 96-45, November 17, 1999, at 4.

petitioned the Commission to waive its USF contribution rules in July 1998.² Rather, OCI contends its circumstances meet the three conditions in Section 10 of the Communications Act to forbear from applying its regulations.³ Specifically, those conditions are: 1) that enforcement is not necessary to ensure that charges of a carrier are just and reasonable and not unduly discriminatory; 2) that enforcement is not necessary to protect consumers, and 3) that forbearance is consistent with the public interest.⁴ Finally, OCI argues that the Commission may forbear from a regulation if doing so promotes competition.⁵

The Commission has already determined that OCI had not satisfied the burden of proof required for a waiver of its USF contribution rules. The Commission first argued that "...the fact that some carriers may have difficulty recovering their contributions from a declining customer base is the product of a competitive marketplace, not an inequitable, discriminatory, or competitively-biased Commission rule" The Commission also noted that using prior year revenues to calculate USF contributions is consistent with Congress's directive for all carriers to contribute to the preservation of universal service on an equitable and nondiscriminatory basis.⁶

²Operator Communications, Inc. d/b/a Oncor Communications, Inc. Emergency Petition for Partial Waiver and Comments in Response to National Telephone & Communications, Inc.'s Request for Partial Waiver (filed July 14, 1998).

³OCI Petition at 4.

⁴47 U.S.C. § 160 (a)(1)-(3).

⁵*Id.*, at 4.

⁶Federal-State Joint Board on Universal Service, Petitions for Waiver or Reconsideration of Sections 54.706, 54.709, and/or 54.711 of the Commission's Rules filed by: Affinity Corporation Hotel Communications, Inc. LDC Telecommunications, Inc. MobileTel, Inc. National Telephone & Communications, Inc. Network Operator Services, Inc. Operator Communications, Inc. U.S. Network, Inc. Memorandum Opinion and Order and Seventeenth Order on Reconsideration

In fact, to grant special consideration, whether that be in the form of a waiver or forbearing from the Commission's rules, simply because a carrier is earning declining revenues would discriminate against other carriers in competitive industries. It would not be in the public interest to grant special exemption to OCI, since doing so would reward precisely those firms that are losing the competitive battle. It certainly would not promote competition as OCI claims. OCI's petition does not support its conclusion that forbearance would not be discriminatory. All carriers face a certain amount of risk recovering the revenues associated with their USF contributions. Carriers in all competitive markets must anticipate what their revenues are expected to be and build in their need to recover their USF contributions on a going forward basis. As the Commission noted in its Eleventh Order on Reconsideration: "...now that carriers are familiar with the contribution process, they have the ability to ameliorate the effects of declining revenues and/or subscribers by reserving a portion of their current revenues to meet the contribution obligations that arise from those current revenues in the following year."⁷

For these reasons, MCI WorldCom urges the Commission to reject OCI's Petition.

Respectfully submitted,
MCI WorldCom, Inc.

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November 29, 1999

Released: October 13, 1999, CC Docket No. 96-45, at ¶21.

⁷Id., at ¶ 30.

Statement of Verification

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on November 29, 1999

Respectfully submitted,
MCI WorldCom, Inc.

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Service List

I, Barbara Nowlin, do hereby certify that a copy of MCI WorldCom's Comments has been sent by United States first class mail, postage prepaid, hand delivery, to the following parties on this 29th day of November, 1999.

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